

Film Incentive Program Procedures & Definitions

The Colorado Film Incentive program is a performance based incentive plan that may rebate up to 10% of the cost of producing a film, documentary or television program when that project is produced and filmed in Colorado.

All production companies seeking to participate in the Film Incentive Program rebate must complete and submit a **“Statement of Intent”** to the **Colorado Film Commission**, which will review applications for the **Colorado Economic Development Commission**. In addition, the production company must be notified, in writing, that their **“Statement of Intent”** has been approved by the **Colorado Film Commission** and the **Colorado Economic Development Commission** prior to commencing principal photography.

The amount of the rebate cannot exceed the amount of funding provided by the Colorado legislature for each fiscal year, beginning with the 2006-2007 State fiscal year.

Failure to comply with these regulations may result in forfeiture of any monies that may become due the production company.

1. Definition of Terms:

- a. **“Film”** – means any visual or audiovisual work that contains a series of related images, that is fixed on photographic film, videotape, computer disc, laser disc, or a similar delivery medium from which it can be viewed or reproduced, and that is shown in theaters, licensed for television broadcasting, or licensed for the home viewing market.
- b. **“Production Activities”** – means the shooting of a film, support activities related to such shooting, and any pre-shooting or photo-shooting activities that are necessary to produce a finished film, including, but not limited to, editing and the creation of sets, props, costumes, and special effects.
- c. **“Production Company”** – means a person including a corporation or other business entity that engages in production activities for the purpose of producing all or any portion of a film in Colorado.
- d. **“Qualified Local Expenditure”** – means a payment made by a production company in Colorado to a business in Colorado in connection with the production of a film that the production company is producing in Colorado. **“Qualified Local Expenditure”** shall include, but not limited to:
 - i. **Payments** made in connection with developing or purchasing the story and scenario to be used for a film;

- ii. **Payments** made for the costs of set construction and operations, wardrobe, accessories, and related services;
- iii. **Payments** made for the costs of photography, sound synchronization lighting and related services.
- iv. **Payments** made for the costs of editing, post-production, music and related services
- v. **Payments** made for the costs of renting facilities and equipment, including location fees, leasing/renting vehicles and providing food and lodging to people working on the film production
- vi. **Payments** for airfare purchased through a Colorado based travel agency or company
- vii. **Payments** for insurance and bonding purchased through a Colorado based agent
- viii. **Payments** for other direct costs incurred by the film production that are deemed appropriate by the **Colorado Film Commission** and the **Colorado Economic Development Commission**.

These are expenditures commonly referred to as “below-the-line” expenses. In keeping with the intent of the legislation to encourage the use of Colorado crew and vendors, Colorado “Qualified Local Expenditures” must be at least 75 percent of total below-the-line expenditures.

- e. **“Qualified Payroll Expenditure”** means an expenditure made by a production company to pay the salaries of actors, management and crew who participate in film production activities and who are **Colorado residents**.

2. **Colorado Screen Credit**

- a. In addition to the minimum spending and hiring requirements, listed below, the production company agrees that the closing credits will contain an acknowledgement that the production was filmed in Colorado unless waived by the Colorado Film Commission based on the nature of the production.

3. **Script Content**

- a. The production company agrees that the script cannot be obscene in nature. In order to ensure the script is not obscene a copy of the script must be submitted at the time of the **“Statement of Intent.”**

4. **Financial Obligations**

- a. The production company agrees that by submitting the **“Statement of Intent”** to the **Colorado Film Commission** and that seeking a rebate from the State of Colorado that they shall agree to pay all obligations the film production company has incurred in the State of Colorado.

5. **Minimum Spending Requirements – Colorado Origination of Film**
 - a. For a production company that **originates the film production** in Colorado, the total amount of the production company’s qualified local expenditures and qualified payroll expenditures must be at least \$100,000.
 - b. For a production company that does **not** originate the film production activities in Colorado, the total amount of the production company’s qualified local expenditures and qualified payroll expenditures must be at least \$1 million.
 - c. The Colorado Film Commission will determine whether a production company “originates” a film production in Colorado based on the state in which that production company is headquartered and has its principal place of business.
6. **Required Percentage of Expenditures and Payroll in Colorado**

To be eligible for the incentive, a production company must spend at least 75 percent of its production expenditures for a film on qualified local expenditures. It must also spend at least 75 percent of its payroll expenditures for a film on qualified local payroll expenditures, as these terms are defined above.
7. **Application Process – “Statement of Intent”**
 - a. The production company shall submit a complete “**Statement of Intent**” application to the **Colorado Film Commission** before any work begins on that project in Colorado.
 - b. The **Colorado Film Commission** will review each application submitted by a production company. Based on the application the **Colorado Film Commission** shall make an initial recommendation of whether the production company will be eligible to receive the incentive and will estimate the amount of the incentive that will be due to the production company. The **Colorado Film Commission** will forward its recommendation to the Colorado Economic Development Commission within Ten (10) days of receipt of a completed “**Statement of Intent**” application.
 - c. The **Colorado Economic Development Commission** or its designee will review each application and recommendation by the Colorado Film Commission. Within fourteen (14) days, it will make a determination if the applicant qualifies for the incentive, based on the material provided by the applicant and the **Colorado Film Commission**, and if it approves, will issue the production company **Conditional Written Approval**. The **Economic Development Commission** will set aside funds for each conditionally approved project until funding is exhausted for that fiscal year to ensure that productions receiving preliminary conditional approval will have funds available to them upon completion of their projects. Under no circumstances will any funds be released until after all production related activities within Colorado are completed and final documentation

is provided to the **Colorado Economic Development Commission** and has received their final approval.

8. Application Process – Final Application

- a. Within Ninety (90) days of completion of production activities in Colorado, a production company that has received conditional approval for a performance-based incentive from the **Colorado Economic Development Commission** shall submit a “**Final Application**” including financial documents to the **Colorado Film Commission** that detail the expenses incurred in the course of the film production activities in Colorado. In addition the production company must provide the **Colorado Film Commission**:
 - i. A Ledger (full vendor names must be clearly visible!)
 - ii. Declaration of Colorado Residency forms including copies of proof of residency (attached to the Declaration of Residency forms), sorted alphabetically by last name.
 - iii. Final crew and vendor lists
 - iv. Total dollar amount spent in Colorado
 - v. Total Colorado Below-The-Line payroll figure
 - vi. Total number of Colorado crew members hired
 - vii. Average crew size (per day) for prep and shoot
 - viii. Number of prep days and number of shoot days, and please include dates
 - ix. List of all Colorado cities used for locations
- b. The production company will also provide a signed **affidavit** stating that the financial documents provided are an accurate accounting of the production company’s qualified local expenditures and qualified payroll expenditures. If the amount of the production company’s actual qualified local expenditures and qualified payroll expenditures equal or exceed the production company’s projected qualified local expenditures and local qualified payroll expenditures submitted to the **Colorado Film Commission** in the production company’s approved “Statement of Intent,” the Colorado Film Commission shall forward to the **Colorado Economic Development Commission** a recommendation that the incentive be issued to the production company.
- c. Upon receipt of a “**Final Application**” the **Colorado Film Commission** will have 30 days to review the application and pass its recommendation on to the **Colorado Economic Development Commission** for their action.
- d. Upon receipt of a “Final Application” and approval by the **Colorado Film Commission** the **Colorado Economic Development Commission** shall have 45 days to review the information and take the appropriate action.
- e. Failure to file a completed “**Final Application**” to the **Colorado Film Commission** within ninety (90) days of completion of the project may result in a forfeiture of any funds reserved for that specific project.

9. Other Terms and Conditions

- a.** A production company with a Conditional Approval shall notify the **Colorado Film Commission** promptly if the project is cancelled or otherwise becomes ineligible for the projected incentive, so that funds earmarked for that project may be released.
- b.** The Colorado Economic Development Commission or its designee may audit the accounts of a production up to 12 months following payment of an incentive.
- c.** A Conditional Approval may be cancelled if the production company violates the terms of the agreement.

These definitions and procedures have been adopted by the Colorado Economic Development Commission based on 24-46-105.8, Colorado Revised Statutes.